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PATENT
Docket No. P1544

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANT(S): NOEL LEE
DEMIAN MARTIN

SERIAL NO.: 10/655,095 EXAMINER: EDGARDO SAN MARTIN

FILED: SEPTEMBER 3, 2003 ART UNIT: 2837

FOR: SURROUND SOUND POSITIONING TOWER
SYSTEM AND METHOD

**MAIL STOP APPEAL
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450**

TRANSMITTAL LETTER

Dear Sir:

In connection with the above-referenced patent application, transmitted herewith are the following:

1. Appeal Brief (24 pages);
2. Appendix A (4 pages);
3. Appendix B (7 pages);

4. Check No. 7284 in the amount of \$500.00; and
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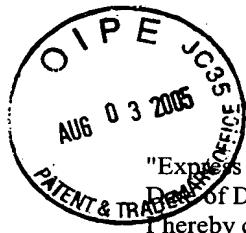
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Respectfully submitted,



May Lin DeHaan
Reg. No. 42,472

MLD/pa
Date: August 3, 2005
LARIVIERE, GRUBMAN & PAYNE, LLP
P.O. Box 3140
Monterey, CA 93942-3140
(831) 649-8800



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**APPEAL BRIEF
(35 U.S.C. § 134(a) and 37 C.F.R. § 1.192)**

To the Board:

This letter is Appellants' Brief on Appeal, under 35 U.S.C. § 134(a) and 37 C.F.R. § 1.192, from a final rejection of Claims 1-20 in the final Office Action dated March 3, 2005. This Appeal Brief is being filed in triplicate and is accompanied by the fee as set forth in 37 C.F.R. § 1.17(c).

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**REAL PARTY IN INTEREST
UNDER 37 C.F.R. § 1.192(c)(1)**

5 The real party in interest is the assignee of the patent application, Monster Cable Products, Inc., doing business at 455 Valley Drive, Brisbane, California 94005-1209.

**RELATED APPEALS AND INTERFERENCES
UNDER 37 C.F.R. § 1.192(c)(2)**

10 On information and belief, no related appeals or interferences are pending.

**STATUS OF CLAIMS
UNDER 37 C.F.R. § 1.192(c)(3)**

15 This non-provisional utility patent application was filed on September 3, 2003, with Claims 1-20. A Preliminary Amendment, amending Claims 7, 10, 17, and 20 and the Specification for informalities, was filed on November 13, 2003. A Supplemental Preliminary Amendment, further amending the Specification for informalities only, was filed on September 8, 2004. The Examiner issued a non-final Office Action on November 3, 2004, rejecting Claims 20 1, 4-7, 11, and 14-17, under 35 U.S.C. § 102(b) as being anticipated by Wilson (US 4450322), rejecting Claims 2, 3, 10, 12, 13, and 20, as being unpatentable over Wilson (US 4450322), in view of Fincham (US 4139734), under 35 U.S.C. § 103(a), rejecting Claims 8, 9, 18, 19, as being unpatentable over Wilson (US 4450322), in view of Shirasaki (JP 61020489), under 35 U.S.C. § 103(a). A Response, amending Claims 1, 2, 7, 10, 11, 12, 17, and 20, to the November 3, 2004, 25 non-final Office Action was filed on December 9, 2004. The Examiner subsequently issued a final Office Action on March 3, 2005, rejecting Claims 1 and 11, as being anticipated by Kurita (JP 63036698 A), under 35 U.S.C. § 102(b), rejecting Claims 2-7, 10, 12-17, and 20, as being unpatentable over Kurita (JP 63036698 A), in view of Wilson (US 4450322), under 35 U.S.C. § 103(a), rejecting Claims 8, 9, 18, and 19, as being unpatentable over Kurita (JP 63036698 A), 30 in view of Wilson (US 4450322), and in further view of Shirasaki (JP 61020489), and wherein the Examiner had implicitly withdrawn the cited reference Fincham (US 4139734). The Appellant hereby appeals the final rejection of Claims 1-20 in the Office Action of March 3, 2005.

**STATUS OF AMENDMENTS
UNDER 37 C.F.R. § 1.192(c)(4)**

5 An Amendment After Final Rejection has been submitted on May 3, 2005, but has not been entered, as noted in the Advisory Action dated May 23, 2005. The claims on appeal are those submitted in the December 9, 2004, Response, having been entered and now twice rejected in the Office Action of March 3, 2005. The Appellants believe that independent Claims 1, 10, and 11, as filed, fully encompass all of the inventive features as set forth in the Specification and are allowable.

10

**SUMMARY OF INVENTION
UNDER 37 C.F.R. § 1.192(c)(5)**

15 In the related art of home theater systems, quality acoustic experience is vital to meeting the electronic consumer's expectations. Current art home theater surround sound systems typically comprise compact disc/digital video disc (CD/DVD) players and/or changers, audio/visual (A/V) receivers, tuners, equalizers, headphones, satellite speakers, center channel speakers, woofers, and/or subwoofers disposed in a fixedly mounted rectanguloid housing. Other current art home theater systems comprise highly specialized installation/orientation features 20 which require extensive technical training and are, thus, not well-suited for use by the average electronics consumer. One such current art home theater system comprises a laser-based alignment tool being magnetically attached to a base plate; stacker discs for incrementally varying the height of the base plate; a speaker baffle; a beam splitter; an line lens; and a protractor plate. These complex components require some training and are used for optimizing 25 speaker installation for a given set of room dimensions and conditions. The current art laser-based alignment tool does not allow for flexibility of room geometry nor for facilitating human factors in its use. Therefore, a need has been seen to exist for a surround sound positioning tower system and method having a positioning feature for better customizing sound direction and constructive interference patterns by the average electronics consumer, especially in a home 30 theater.

The present invention surround sound system and method addresses the foregoing need in a surround sound positioning tower system and method which have a positioning feature for customizing sound direction and constructive interference patterns by the average electronics

consumer. The present invention system comprises consistent geometric alignment of a multi-channel sound system and may be integrated into any type of speaker system. Generally, the present invention surround sound system comprises a surround sound tower being vertically disposed, a base plate being horizontally disposed, and a structure for positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the positioning structure, wherein the positioning structure comprises a structure for indicating an angular rotation of the surround sound tower relative to the base plate and a structure for facilitating rotation of the angular rotation indicating structure, wherein the angular rotation indicating structure comprises a pointer plate having a visible marking, e.g., a dial, and wherein the facilitating structure comprises a plurality of ball bearings, and wherein the base plate comprises a plurality of angular indications, e.g., reference center points and calibrated angular indications for precisely orienting or positioning the tower, wherein the surround sound tower comprises a feature such as a center channel speaker, and a tweeter module, wherein the tweeter module comprises a tweeter and a detachable permeable tweeter housing disposed around the tweeter. The present invention system further comprises a binding post disposed at a rear surface of the tower for both electronically and mechanically binding the tower to the positioning structure; and the system further comprises a structure for indicating a sonic intensity, wherein the sonic intensity indicating structure comprises a light pipe. Such light pipe is disposed on a rear side of the tower for producing a aura visual effect when viewed, by the consumer, from a front side.

Also, more than one surround sound system is simply configured in a home theater environment for customizing sound direction and constructive interference patterns by the average electronics consumer, because each system has its own positioning structure, whereby repeatability is provided for any given prior positioning selection, i.e., the combination of positions, in the event that the systems become disoriented, e.g., by a seismic event. The present invention system further comprises simulation software for generating precise geometric data and electro-mechanical actuators, receiving the generated data, for facilitating customizing and optimizing sound direction as well as constructive interference patterns by the average electronics consumer.

The present invention surround sound method comprises the steps of providing a surround sound tower being vertically disposed, providing a base plate being horizontally

disposed, and providing structure for positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the positioning structure, wherein the positioning structure providing step comprises the step of providing a structure for indicating an angular rotation of the surround sound tower relative to the base plate and the step of providing 5 a structure for facilitating rotation of the angular rotation indicating structure, wherein the angular rotation indicating structure providing step comprises the step of providing a pointer plate having a visible marking, and wherein the facilitating structure providing step comprises the step of providing a plurality of ball bearings, and wherein the base plate providing step comprises the step of providing a plurality of angular indications, wherein the surround sound tower providing 10 step comprises the step of providing a feature such as a center channel speaker, and a tweeter module, wherein the tweeter module providing step comprises the steps of providing a tweeter and providing a detachable permeable tweeter housing disposed around the tweeter. The present method further comprises the step of providing a binding post disposed at a rear surface of the tower for both electronically and mechanically binding the tower to the positioning structure; and 15 the method further comprises the step of providing a structure for indicating a sonic intensity, wherein the sonic intensity indicating structure comprises providing a light pipe. The present method further comprises the step of disposing the light pipe on a rear side of the tower for producing a aura visual effect when viewed, by the consumer, from a front side.

The present invention method further comprises the step of disposing more than one 20 system in a room by using a tape measure, a string, a rope, or any other tension structure for defining a reference line between any given two systems, aligning positioning structures of the systems to the reference line, thereby precisely disposing the systems at a uniform distance from a listening position, and thereby providing repeatability for any given prior positioning selection, i.e., the combination of positions, in the event that the systems become disoriented, e.g., by a 25 seismic event. The present invention method further comprises the step of providing simulation software for generating precise geometric data and providing electro-mechanical actuators, receiving the generated data, for facilitating customizing and optimizing sound direction as well as constructive interference patterns by the average electronics consumer.

Advantages may include, but are not limited to, simplifying the customization and 30 optimization of sound direction and constructive interference patterns by interactively positioning the sound tower or more than one sound tower and by modular usage of as well as economizing

5 floor space by vertically disposing the tower(s) on any horizontal surface, such as a shelf, a platform as well as a floor, especially in a home theater environment by the average electronics consumer.

10 **ISSUES
UNDER 37 C.F.R. § 1.192(c)(6)**

I. Whether Claims 1 and 11 are anticipated, under 35 U.S.C. § 102(b), by Kurita et al. (JP 63036698 A).

15 II. Whether Claims 2-7, 10, 12-17, and 20 are unpatentable, under 35 U.S.C. §103(a), over Kurita et al. (JP 63036698 A), in view of Wilson (US 4,450,322).

III. Whether Claims 8, 9, 18, and 19 are unpatentable, under 35 U.S.C. § 103(a), over Kurita et al. (JP 63036698 A), in view of Wilson (US 4,450,322), and in further view of Shirasaki (JP 61020489).

20 **GROUPING OF CLAIMS
UNDER 37 C.F.R. § 1.192(c)(7)**

The claims do not stand nor fall together.

25 **ARGUMENT
UNDER 37 C.F.R. § 1.192(c)(8)**

INTRODUCTORY REMARKS

30 On appeal, the Appellants wish to thank the Examiner for withdrawing the cited reference, Fincham (US 4139734). Claims 1-20 have been either actually or constructively amended in the Response dated December 9, 2004, to the Office Action dated November 3, 2004, to better encompass the full scope and breadth of the present invention, notwithstanding the Appellant's belief that the claims would have been allowable as originally filed. The claims have been further amended in the May 3, 2005, Response; however, this amendment has not been

entered. Accordingly, the Appellant respectfully asserts that no claims have been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Claims 1-20 are believed to be fully supported by the specification, and are believed to be in allowable form. Alternatively, the claims are believed to be in form for this 5 appeal. Thus, favorable consideration of the present continuation application is respectfully requested in light of these remarks, the following argument and the appendices.

10 **I. Whether Claims 1 and 11 are anticipated, under 35 U.S.C. § 102(b), by Kurita et al. (JP 63036698 A).**

15 **A. Specific nature of the Examiner's rejection.**

20 Claims 1 and 11 have been rejected under 35 U.S.C. §102(b) as being anticipated by Kurita et al. (JP 63036698 A). Independent Claim 1 has been amended, in the December 9, 25 2004, Response, by inserting the term “angularly” before the term “positioning.” Independent Claim 11 has been likewise amended in the December 9, 2004, Response, by inserting the term “angularly” before the term “positioning.” The Appellants believe that the present invention is patentable over this cited reference for the following reasons.

20 **B. Analysis in light of the evidence**

25 Notwithstanding Claims 1 and 11 having been amended to more fully encompass the present invention, the Appellants hereby respectfully traverse the Examiner's grounds for rejection on this basis. As conceded by the Examiner in Paragraph 2 of the March 3, 2005, Office Action, Kurita “fail[s] to disclose means for indicating an angular rotation of the surround sound tower relative to the base plate, and means for facilitating rotation of the angular rotation indicating means.” Further, Kurita merely teaches “A transmission signal from a remote means is received to control the drive of motor 12 and *an upper cabinet 14a accommodating a speaker 15a is driven relatively to a lower cabinet 14b accommodating a speaker 15b* via spur gears 11a, 30 11b and positioned to a desired position by receiving a transmission signal from the remote means to control the drive of a motor 12” (Abstract) [Emphasis added]. Kurita does not teach

the presently claimed “means *for angularly positioning* the surround sound *tower on the base plate*, the surround sound *tower being mounted on, and normal to, the angularly positioning means*” (Claim 1) [Emphasis added]. In essence, Kurita teaches the upper speaker cabinet 14a being *driven relative* to the lower speaker cabinet 14b, not driven relative to any base plate. In 5 contrast, the present invention *surround sound tower is angularly positioned on and relative to the base plate*, not relative to any lower or other speaker unit of any kind.

In contrast to Kurita, the present invention speakers of the tower 10 are disposed on the same plane, and, thus, do not, and cannot, move relative to one another (Figs. 4 and 5). Because the speakers are mounted in the tower 10 in this fashion, the tower 10 rotates only 10 relative to the base plate 20.

Distinctions between the present invention and the Kurita reference.

The law, under 35 U.S.C. § 102, is well settled that for a cited art reference to 15 anticipate a claimed invention, all of the claimed elements must be taught by the cited art. The limitations that distinguish independent system Claim 1 from the Kurita reference are as follows:

1. “*a surround sound tower* being vertically disposed;
a base plate being horizontally disposed; and
20 *means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means.*”

Thus, by dependency, Claims 2-9 are also distinct from the Kurita reference.

The limitations that distinguish independent method Claim 11 from the Kurita 25 reference are as follows:

11. “*providing a surround sound tower* being vertically disposed;
providing a base plate being horizontally disposed; and
providing means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly 30 positioning means.”

Thus, by dependency, Claims 12-20 are also distinct from the Kurita reference.

C. Conclusion with respect to Issue I.

5 Thus, Kurita does not teach the presently claimed “means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means” nor the presently claimed steps in providing these elements. Therefore, the Appellants respectfully request that the Examiner’s grounds for rejection of Claims 1 and 11 on this basis be REVERSED.

10 **II. Whether Claims 2-7, 10, 12-17, and 20 are unpatentable, under 35 U.S.C. § 103(a), over Kurita et al. (JP 63036698 A), in view of Wilson (US 4,450,322).**

A. Specific nature of the Examiner’s rejection.

15 Claims 2-7, 10, 12-17, and 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kurita et al. (JP 63036698 A), in view of Wilson (US 4,450,322). Independent Claim 1 has been amended, in the December 9, 2004, Response, by inserting the term “angularly” before the term “positioning,” as discussed, *supra*. As such, Claims 2-7 subsume the limitations of Claim 1 by dependency. Independent Claim 10 has been also amended, in the December 9, 2004, Response, by inserting the term “angularly” before the term “positioning.” Independent 20 Claim 11 has been likewise amended in the December 9, 2004, Response, by inserting the term “angularly” before the term “positioning,” as discussed, *supra*. Thus, Claims 12-17 and 20 subsume the limitations of Claim 11 by dependency. The Appellants believe that the present invention is patentable over this cited reference for the following reasons.

25 **B. Analysis in light of the evidence.**

30 Notwithstanding Claims 1 and 11 having been amended to more fully encompass the present invention, the Appellants hereby respectfully traverse the Examiner’s grounds for rejection on this basis. As conceded by the Examiner in Paragraph 2 of the March 3, 2005, Office Action, Kurita “fail[s] to disclose means for indicating an angular rotation of the surround sound tower relative to the base plate, and means for facilitating rotation of the angular rotation

indicating means.” Further, as discussed, *supra*, Kurita merely teaches “A transmission signal from a remote means is received to control the drive of motor 12 and *an upper cabinet 14a accommodating a speaker 15a is driven relatively to a lower cabinet 14b accommodating a speaker 15b* via spur gears 11a, 11b and positioned to a desired position by receiving a transmission signal from the remote means to control the drive of a motor 12” (Abstract) [Emphasis added]. Kurita does not teach the presently claimed “means for *angularly positioning* the surround sound *tower on the base plate*, the surround sound *tower being mounted on, and normal to, the angularly positioning means*” (Claim 1) [Emphasis added]. In essence, Kurita teaches the upper speaker cabinet 14a being *driven relative* to the lower speaker cabinet 14b, not driven relative to any base plate. In contrast, the present invention *surround sound tower is angularly positioned on and relative to the base plate*, not relative to any lower or other speaker unit of any kind.

With respect to Wilson, this cited reference merely teaches a speaker assembly comprising means for linear adjustment and calibration of the relative positions of the drivers (Abstract). Wilson’s adjusting and calibrating means is limited to a purely *translational* adjustment and calibration of the drivers using an individual adjusting and calibrating mechanism for each driver which permits only linear adjustment relative to any other drive in the system which may be “accomplished by adjusting the position of a mounting sub-assembly which supports the other drivers relative to the ‘fixed’ component” (col. 3, ll. 47-55; Fig. 6).

Regarding Claim 10, the Examiner has cited Wilson, in combination with Kurita, for asserting a motivation for the presently claimed *means for indicating an angular rotation of the surround sound tower relative to the base plate, and means for facilitating rotation of the angular rotation indicating means*. However, a closer reading of Wilson will show that this cited reference does not provide any such motivation nor suggestion. The Examiner even concedes, in Paragraph 2, that “Wilson teaches [] means for indicating a *movement or translation*” [Emphasis added] The Examiner has not stated that such movement is, by any means, rotational, but concedes that it is only translational.

Specifically, Wilson teaches only translational (linear) movement of the drivers for improving the constructive interference patterns (col. 2, ll. 39-64). This linear or “ruler” configuration is further taught by Wilson as follows: “The upper mounting sub-assembly 21 rests upon an adjustable support 23 ...” (col. 4, ll. 17-18); “... the speaker assembly 11 ... is particularly

adapted for *adjusting the various drivers generally fore and aft* relative to a critical listening point ..." [Emphasis added.] (col. 4, ll. 24-27); and "Referring to FIG. 6, the position of the woofer 13 relative to the other drivers in the system is *adjusted by sliding the mounting sub-assembly 21 along a calibrated track 23* ..." [Emphasis added.] (col. 4, l. 66 - col. 5, l. 2).
 5 Wilson specifically teaches phase alignment for each speaker element relative to any other speaker element by sliding a respective elongated rod 22.

In contrast to Kurita, even in view of Wilson, the present invention comprises a purely *rotational* adjusting means, i.e., an entirely distinct mechanism and structure, and is fully disclosed in the originally filed Specification (para. 3, ll. 15-25; para. 9-10; para. 19, ll. 19-26)
 10 as well as in the originally filed drawings (Figs. 1-2) for angularly positioning the speakers as a unit. Each speaker in the present invention is not being adjusted relative to any other speaker. Rather, the entire row of speakers 10 or 11 is being rotated together, i.e., in concert. Additionally, as discussed, *supra*, the present invention speakers of the tower 10 are disposed on the same plane, and, thus, do not, and cannot, move relative to one another (Figs. 4 and 5).
 15 Because the speakers are mounted in the tower 10 in this fashion, the tower 10 rotates only relative to the base plate 20.

Further, Wilson teaches only a support base 12. Reiterating, the speaker components 15, 17, 19 do not rotate in relation to the support base 12. Distinctively, the present invention surround sound tower 10 or 11, having a row of speakers, is *both vertically disposed as well as angularly positioned* in relation to *a base plate 20 being horizontally disposed* (Figs. 1 and 2).
 20 The Applicants respectfully submit that Wilson does not teach the presently claimed elements: *a surround sound tower being vertically disposed; a base plate being horizontally disposed; and means for angularly positioning.*

Specifically, the Examiner asserts that "a person of ordinary skill ... would employ the
 25 Wilson means for indicating a movement or translation ... with the Kurita ... design[,] because the [Wilson] *means for indicating* a movement or *translation would provide an accurate measurement of* the [Kurita] speaker *rotating needed to adjust the speaker* to an optimum listening position" In essence, the Examiner has advanced the following rationale in support of the grounds for rejection of the present claims on the basis of obviousness: **that means for indicating a translation would provide a measurement of rotation** (Office Action, p.3). The Applicant respectfully submits that the Examiner's rationale has been "**lost in translation**," so

to speak, in light of the cited references. In particular, “rotation” is defined as “... the act or process of turning around a center or an axis ...”¹ In contrast, “translation is defined as follows: “... *Physics*. Motion of a body in which every point of the body moves parallel to and the same distance as every other point of the body; **nonrotational** displacement.”² [Emphasis added.]

5 This being so, any suggestion or motivation provided by Wilson is entirely inapposite to the claims of the present invention, i.e., a translational indicator does not, and cannot, suggest nor motivate a rotational indicator.

Rather, Wilson merely, at best, merely suggests a speaker assembly comprising *means for linear adjustment and calibration of the relative positions of the drivers* (Abstract). Wilson’s 10 adjusting and calibrating means is limited to a *purely translational adjustment and calibration* of the drivers using an individual adjusting and calibrating mechanism for each driver which permits only linear adjustment relative to any other drive in the system which may be “accomplished by adjusting the position of a mounting sub-assembly which supports the other drivers relative to the ‘fixed’ component” (col. 3, ll. 47-55; Fig. 6).

15 Specifically, Wilson discloses only translational (linear) movement of the drivers for improving the constructive interference patterns (col. 2, ll. 39-64). This linear or “ruler” configuration is further taught by Wilson as follows: “The upper mounting sub-assembly 21 rests upon an adjustable support 23 ...” (col. 4, ll. 17-18); “... the speaker assembly 11 ... is particularly adapted for *adjusting the various drivers generally fore and aft* relative to a critical listening 20 point ...” [Emphasis added.] (col. 4, ll. 24-27); and “Referring to FIG. 6, the position of the woofer 13 relative to the other drivers in the system is **adjusted by sliding the mounting sub-assembly 21 along a calibrated track 23 ...**” [Emphasis added.] (col. 4, l. 66 - col. 5, l. 2). Wilson specifically teaches phase alignment for each speaker element relative to any other speaker element by sliding a respective elongated rod 22.

25

¹The American Heritage Dictionary, 3rd Ed., Houghton Mifflin Company, p. 1570 (1992).

²*Id.* at 1902.

Distinctions between the present invention and the Kurita reference, even in view of the Wilson reference.

5 The law, under 35 U.S.C. § 103, is well settled that for a cited art reference to render obvious a claimed invention, the combination of the claimed elements must be taught, motivated, or suggested by the cited art. The limitations that patentably distinguish independent system Claim 1 from the Kurita reference, even in view of the Wilson reference, are as follows:

10 1. “*a surround sound tower* being vertically disposed;
a base plate being horizontally disposed; and
means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means.”

15 Thus, by dependency, Claims 2-7 are also distinct from the Kurita reference, even in view of the Wilson reference.

The limitations that patentably distinguish independent illustrative system Claim 10 from the Kurita reference, even in view of the Wilson reference, are as follows:

20 10. “*a surround sound tower* being vertically disposed;
a base plate being horizontally disposed;
means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on the angularly positioning means,
wherein the angularly positioning means comprises:
means for indicating an angular rotation of the surround sound tower relative to the base plate; and
means for facilitating rotation of the angular rotation indicating means, and
wherein the base plate comprises a plurality of angular indications,
wherein the surround sound tower comprises at least one feature selected from a group consisting essentially of a center channel speaker and a tweeter module;
a binding post disposed at a rear surface of the tower for both electronically and mechanically the tower to the angularly positioning means; and
means for indicating a sonic intensity.”

The limitations that patentably distinguish independent method Claim 11 from the Kurita reference, even in view of the Wilson reference, are as follows:

11. *“providing a surround sound tower being vertically disposed; providing a base plate being horizontally disposed; and providing means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means.”*

Thus, by dependency, Claims 12-17 and 20 are also distinct from the Kurita reference, even in view of the Wilson reference.

10

C. Conclusion with respect to Issue II.

Thus, Kurita, even in view of Wilson, does not teach, motivate, nor suggest the presently claimed combination of elements of Claim 1: *“a surround sound tower being vertically disposed; a base plate being horizontally disposed; and “means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means[,]”* the presently claimed combination of elements of Claim 10: *“a surround sound tower being vertically disposed; a base plate being horizontally disposed; means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on the angularly positioning means, wherein the angularly positioning means comprises: means for indicating an angular rotation of the surround sound tower relative to the base plate; and means for facilitating rotation of the angular rotation indicating means, and wherein the base plate comprises a plurality of angular indications, wherein the surround sound tower comprises at least one feature selected from a group consisting essentially of a center channel speaker and a tweeter module; a binding post disposed at a rear surface of the tower for both electronically and mechanically the tower to the angularly positioning means; and means for indicating a sonic intensity[,]”* nor the presently claimed combination of steps in providing the elements of Claim 1 as recited in method Claim 11. Therefore, the Appellants respectfully request that the Examiner’s grounds for rejection of Claims 2-7, 10, 12-17, and 20 on this basis be REVERSED.

III. Whether Claims 8, 9, 18, and 19 are unpatentable, under 35 U.S.C. § 103(a), over Kurita et al. (JP 63036698 A), in view of Wilson (US 4,450,322), and in further view of Shirasaki (JP 61020489).

5 **A. Specific nature of the Examiner's rejection.**

Claims 8, 9, 18, and 19 have been rejected, under 35 U.S.C. § 103(a), as being unpatentable over Kurita et al. (JP 63036698 A), in view of Wilson (US 4,450,322), and in further view of Shirasaki (JP 61020489). The claims have been amended only insofar as has 10 been described, *supra*.

B. Analysis in light of the evidence.

Notwithstanding Claims 1 and 11 having been amended to more fully encompass the 15 present invention, the Appellants hereby respectfully traverse the Examiner's grounds for rejection on this basis. Reiterating, the Examiner concedes, in Paragraph 2 of the Office Action, that Kurita "fail[s] to disclose means for indicating an angular rotation of the surround sound tower relative to the base plate, and means for facilitating rotation of the angular rotation indicating means" and that "Wilson teaches [] means for indicating a *movement* or *translation* 20" [Emphasis added.] As discussed, *supra*, the present invention speakers of the tower 10 are disposed on the same plane, and, thus, do not, and cannot, move relative to one another (Figs. 4 and 5). Because the speakers are mounted in the tower 10 in this fashion, the tower 10 rotates only relative to the base plate 20. Shirasaki has been cited, in combination with Kurita and Wilson, only insofar as merely disclosing "means for indicating a sonic intensity." For the 25 reasons stated, *supra*, with respect to Kurita, in combination with Wilson, the Applicants respectfully submit that Kurita, even in view of Wilson, and even in further view of Shirasaki, does not teach, motivate, nor suggest the presently claimed patentably distinct combination of elements as recited in herein amended independent Claims 1 and 11, notwithstanding any teaching regarding the lighting equipment 6 of Shirasaki.

30 Reiterating, Wilson merely teaches an adjusting and calibrating means being limited to a purely *translational* adjustment and calibration of the drivers using an individual adjusting and

calibrating mechanism for each driver which permits only linear adjustment relative to any other drive in the system.

5 **Distinctions between the present invention and the Kurita reference, even in view of the Wilson reference, and even in further view of the Shirasaki reference.**

10 The law, under 35 U.S.C. § 103, is well settled that for a cited art reference to render independent system Claim 1 from the Kurita reference, even in view of the Wilson reference, and even in further view of the Shirasaki reference, are as follows:

1. “*a surround sound tower* being vertically disposed;
a base plate being horizontally disposed; and
means for angularly positioning the surround sound tower on the base plate, the
15 *surround sound tower being mounted on, and normal to, the angularly positioning means.*”

Thus, by dependency, Claims 8 and 9 are also distinct from the Kurita reference, even in view of the Wilson reference, and even in further view of the Shirasaki reference.

20 The limitations that patentably distinguish independent method Claim 11 from the Kurita reference, even in view of the Wilson reference, and even in further view of the Shirasaki reference, are as follows:

25 11. “*providing a surround sound tower* being vertically disposed;
providing a base plate being horizontally disposed; and
providing means for angularly positioning the surround sound tower on the base plate,
the *surround sound tower being mounted on, and normal to, the angularly positioning means.*”

Thus, by dependency, Claims 18 and 19 are also distinct from the Kurita reference, even in view of the Wilson reference, and even in further view of the Shirasaki reference.

C. Conclusion with respect to Issue III.

Thus, the Appellants respectfully submit that Kurita, even in view of Wilson, and even in view of Shirasaki, does not teach, motivate, nor suggest the subject matter of independent 5 Claims 1 and 11 which are believed to overcome these grounds for rejection. As such, the Applicants believe that Kurita, even in view of Wilson, and even in further view of Shirasaki, does not teach, motivate, nor suggest the subject matter of dependent Claims 8, 9, 18, and 19, i.e., the limitations of Claim 8 (“further comprising means for indicating a sonic intensity”), the limitations of Claim 9 (“wherein the sonic intensity indicating means comprises a light pipe”), and the limitations of Claims 18 and 19, respectively reciting the providing steps of the elements 10 of Claims 8 and 9. Therefore, the Appellants respectfully request that the Examiner’s grounds for rejection of Claims 8, 9, 18, and 19 on this basis be REVERSED.

The Claims Do Not Stand Nor Fall Together:

The Appellant respectfully submits that the claims either stand or fall individually. With regard to independent Claim 1, Claims 2-9 are dependent therefrom and differ in 5 cumulative language as follows:

Claim 1.

10 A surround sound system, comprising:
a surround sound tower being vertically disposed;
a base plate being horizontally disposed; and
means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means.

Claim 2.

15 wherein the angularly positioning means comprises:
means for indicating an angular rotation of the surround sound tower relative to the base plate; and
means for facilitating rotation of the angular rotation indicating means.

Claim 3.

wherein the angular rotation indicating means comprises a pointer plate having a visible marking,
wherein the facilitating means comprises a plurality of ball bearings, and
wherein the base plate comprises a plurality of angular indications.

25

Claim 4.

wherein the surround sound tower comprises at least one feature selected from a group consisting essentially of a center channel speaker and a tweeter module.

Claim 5.

wherein the tweeter module comprises a tweeter.

Claim 6.

wherein the tweeter module further comprises a detachable permeable tweeter housing disposed around the tweeter.

5 Claim 7.

further comprising a binding post disposed at a rear surface of the tower for both electronically and mechanically the tower to the angularly positioning means.

Claim 8.

10 further comprising means for indicating a sonic intensity.

Claim 9.

wherein the sonic intensity indicating means comprises a light pipe.

15 With regard to independent Claim 10, this claim is an illustrative claim reciting many of the patentably distinct features as follows.

Claim 10.

20 A surround sound system, comprising:

a surround sound tower being vertically disposed;

a base plate being horizontally disposed;

means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on the angularly positioning means,

wherein the angularly positioning means comprises:

25 means for indicating an angular rotation of the surround sound tower relative to the base plate; and

means for facilitating rotation of the angular rotation indicating means, and

wherein the base plate comprises a plurality of angular indications,

wherein the surround sound tower comprises at least one feature selected from a group 30 consisting essentially of a center channel speaker and a tweeter module;

a binding post disposed at a rear surface of the tower for both electronically and mechanically the tower to the angularly positioning means; and means for indicating a sonic intensity.

5 With regard to independent Claim 11, Claims 12-20 are dependent therefrom and differ in cumulative language as follows.

Claim 11.

10 A surround sound method, comprising:
providing a surround sound tower being vertically disposed;
providing a base plate being horizontally disposed; and
providing means for angularly positioning the surround sound tower on the base plate,
the surround sound tower being mounted on, and normal to, the angularly
positioning means.

15

Claim 12.

wherein the angularly positioning means providing step comprises:
providing means for indicating an angular rotation of the surround sound tower relative
to the base plate; and
20 providing means for facilitating rotation of the angular rotation indicating means.

Claim 13.

wherein the angular rotation indicating means providing step comprises providing a
pointer plate having a visible marking,
25 wherein the facilitating means providing step comprises providing a plurality of ball
bearings, and
wherein the base plate providing step comprises providing a plurality of angular
indications.

30

Claim 14.

wherein the surround sound tower providing step comprises providing at least one feature selected from a group consisting essentially of a center channel speaker and a tweeter module.

5

Claim 15.

wherein the tweeter module providing step comprises providing a tweeter.

Claim 16.

10 wherein the tweeter module providing step further comprises providing a detachable permeable tweeter housing disposed around the tweeter.

Claim 17.

15 further comprising providing a binding post disposed at a rear surface of the tower for both electronically and mechanically the tower to the angularly positioning means.

Claim 18.

further comprising providing means for indicating a sonic intensity.

20

Claim 19.

wherein the sonic intensity indicating means providing step comprises providing a light pipe.

25

Claim 20.

wherein the angularly positioning means providing step comprises:
providing means for indicating an angular rotation of the surround sound tower relative to the base plate; and
providing means for facilitating rotation of the angular rotation indicating means, wherein the base plate providing step comprises providing a plurality of angular indications,

wherein the surround sound tower providing step comprises providing at least one feature selected from a group consisting essentially of a center channel speaker and a tweeter module,
5 further comprising providing a binding post disposed at a rear surface of the tower for both electronically and mechanically the tower to the angularly positioning means; and further comprising providing means for indicating a sonic intensity.

10 Thus, the Appellants likewise respectfully submit that inventive features may be individually characterized; and that, therefore, the foregoing claims should not stand nor fall together. Only a truly anticipatory reference in every sense would be able to render all of the foregoing claims unpatentable.

CONCLUSION

Accordingly, Claims 1-20, as either actually or constructively amended in the December 9, 2004, Response, better encompass the full scope and breadth of the present invention, notwithstanding the Appellants' belief that the claims would have been allowable as originally filed. The Appellants respectfully reassert that no claims have been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Therefore, appeal of the present application in light of the arguments is respectfully requested. Pending Claims 1-20 are believed to be fully supported by the specification, and are believed to be in allowable form, or alternatively, in form for this appeal. In view of the foregoing arguments, the Appellants respectfully request that the rejection of Claims 1-20 be REVERSED.

Respectfully submitted,



May Lin DeHaan
Reg. No. 42,472

MLD:pa
Date: August 3, 2005
LARIVIERE, GRUBMAN & PAYNE, LLP
Post Office Box 3140
Monterey, CA 93942
(831) 649-8800

APPENDIX A
UNDER 37 C.F.R. § 1.192(c)(9)

Claims:

1. A surround sound system, comprising:
a surround sound tower being vertically disposed;
a base plate being horizontally disposed; and
means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means.
2. A system, as recited in Claim 1, wherein the angularly positioning means comprises:
means for indicating an angular rotation of the surround sound tower relative to the base plate; and
means for facilitating rotation of the angular rotation indicating means.
3. A system, as recited in Claim 2,
wherein the angular rotation indicating means comprises a pointer plate having a visible marking,
wherein the facilitating means comprises a plurality of ball bearings, and
wherein the base plate comprises a plurality of angular indications.
5
4. A system, as recited in Claim 1, wherein the surround sound tower comprises at least one feature selected from a group consisting essentially of a center channel speaker and a tweeter module.
5. A system, as recited in Claim 4, wherein the tweeter module comprises a tweeter.
6. A system, as recited in Claim 5, wherein the tweeter module further comprises a detachable permeable tweeter housing disposed around the tweeter.

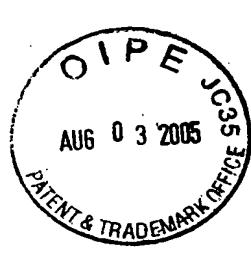
7. A system, as recited in Claim 6, further comprising a binding post disposed at a rear surface of the tower for both electronically and mechanically the tower to the angularly positioning means.
8. A system, as recited in Claim 1, further comprising means for indicating a sonic intensity.
9. A system, as recited in Claim 8, wherein the sonic intensity indicating means comprises a light pipe.
10. A surround sound system, comprising:
 - a surround sound tower being vertically disposed;
 - a base plate being horizontally disposed;
 - means for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on the angularly positioning means,5
wherein the angularly positioning means comprises:
 - means for indicating an angular rotation of the surround sound tower relative to the base plate; and
 - means for facilitating rotation of the angular rotation indicating means, and10
wherein the base plate comprises a plurality of angular indications,
wherein the surround sound tower comprises at least one feature selected from a group
consisting essentially of a center channel speaker and a tweeter module;
a binding post disposed at a rear surface of the tower for both electronically and
mechanically the tower to the angularly positioning means; and
means for indicating a sonic intensity.
11. A surround sound method, comprising:
 - providing a surround sound tower being vertically disposed;
 - providing a base plate being horizontally disposed; and
 - providing means for angularly positioning the surround sound tower on the base plate,5
the surround sound tower being mounted on, and normal to, the angularly positioning means.

12. A method, as recited in Claim 11, wherein the angularly positioning means providing step comprises:
providing means for indicating an angular rotation of the surround sound tower relative to the base plate; and
5 providing means for facilitating rotation of the angular rotation indicating means.
13. A method, as recited in Claim 12,
wherein the angular rotation indicating means providing step comprises providing a pointer plate having a visible marking,
wherein the facilitating means providing step comprises providing a plurality of ball
5 bearings, and
wherein the base plate providing step comprises providing a plurality of angular indications.
14. A method, as recited in Claim 11, wherein the surround sound tower providing step comprises providing at least one feature selected from a group consisting essentially of a center channel speaker and a tweeter module.
15. A method, as recited in Claim 14, wherein the tweeter module providing step comprises providing a tweeter.
16. A method, as recited in Claim 15, wherein the tweeter module providing step further comprises providing a detachable permeable tweeter housing disposed around the tweeter.
17. A method, as recited in Claim 16, further comprising providing a binding post disposed at a rear surface of the tower for both electronically and mechanically the tower to the angularly positioning means.
18. A method, as recited in Claim 11, further comprising providing means for indicating a sonic intensity.

19. A method, as recited in Claim 18, wherein the sonic intensity indicating means providing step comprises providing a light pipe.
20. A method, as recited in Claim 11,
wherein the angularly positioning means providing step comprises:
 providing means for indicating an angular rotation of the surround sound tower
 relative to the base plate; and
5 providing means for facilitating rotation of the angular rotation indicating means,
wherein the base plate providing step comprises providing a plurality of angular
indications,
wherein the surround sound tower providing step comprises providing at least one feature
selected from a group consisting essentially of a center channel speaker and a
10 tweeter module,
further comprising providing a binding post disposed at a rear surface of the tower for
both electronically and mechanically the tower to the angularly positioning
means; and
further comprising providing means for indicating a sonic intensity.

**APPENDIX B: COMPARATIVE DRAWINGS
UNDER 37 C.F.R. § 1.192(c)(6)**

1. **Present Invention (2 pages)**
2. **Kurita et al. (JP 63036698 A) (1 page)**
3. **Wilson (US 4450322) (1 page)**
4. **Shirasaki (JP 61020489) (2 pages)**



1/4

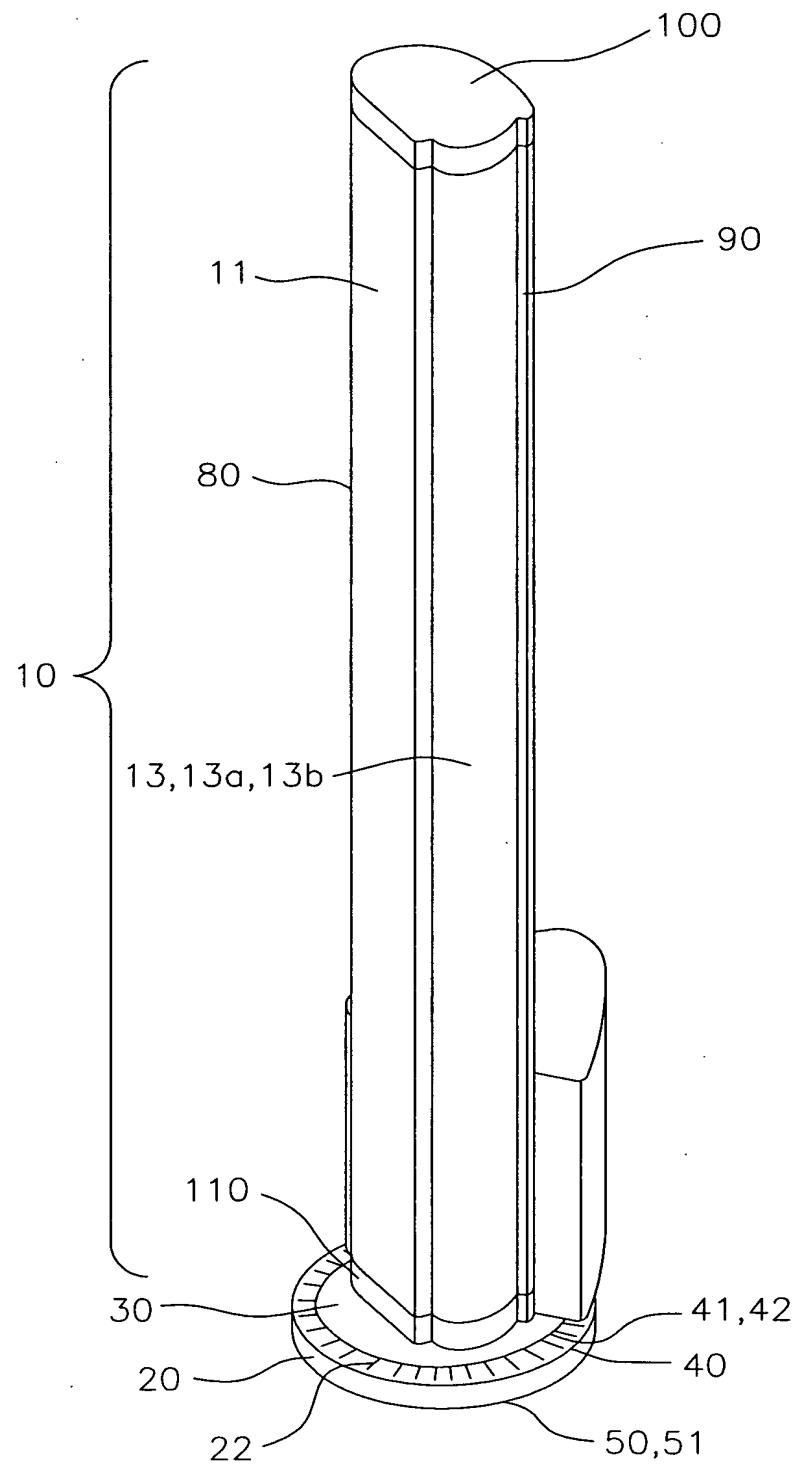


Figure 1

3/4

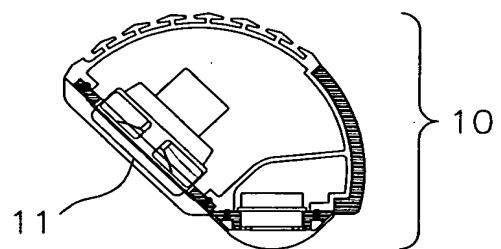


Figure 3

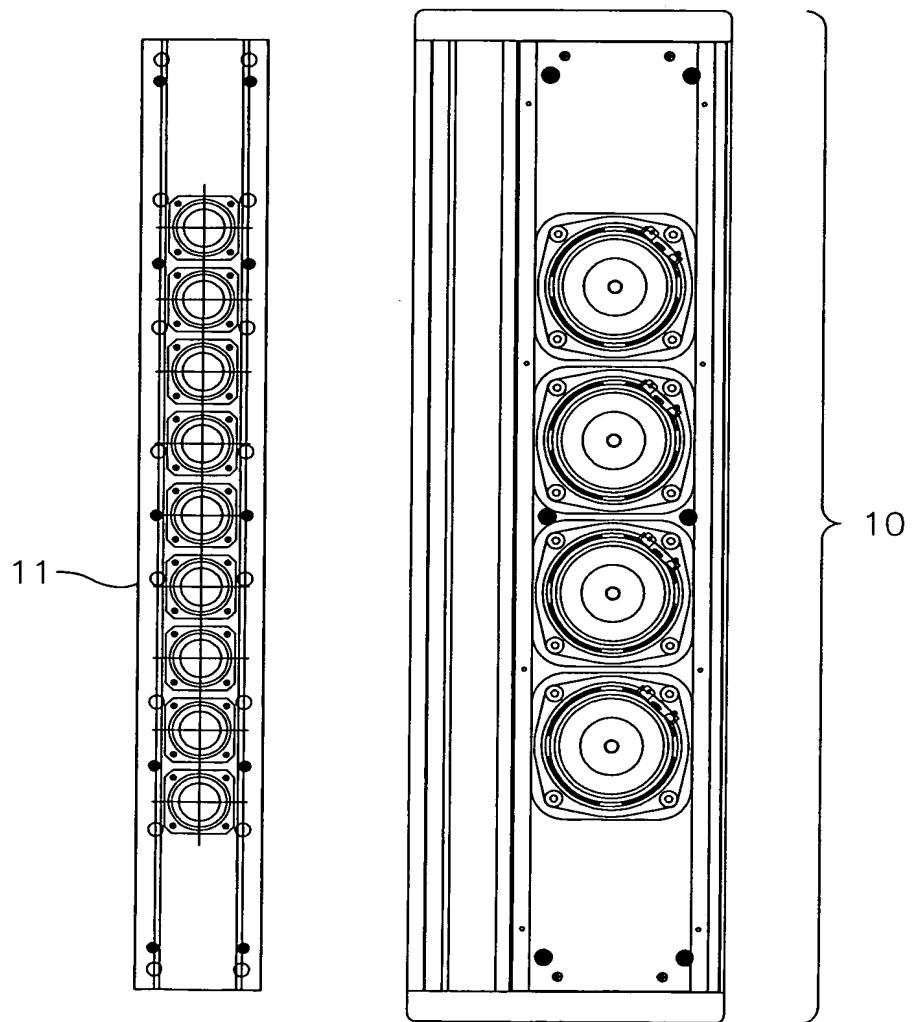


Figure 4

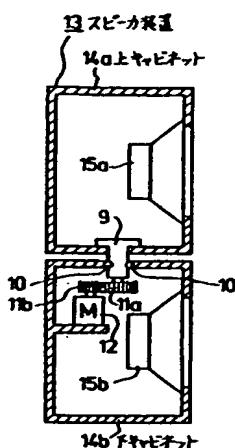
Figure 5

ながらキャビネット(2)を回動させて再生信号の出力方向を変化させることができ、臨場感のある音場を簡単に設定することができる利益がある。

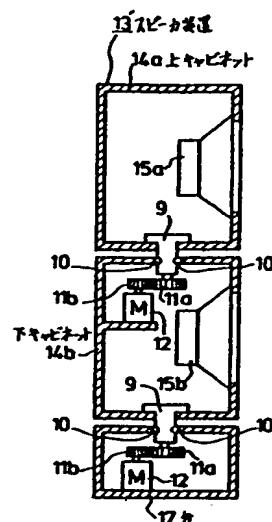
図面の簡単な説明

第1図は本発明のスピーカ装置の一実施例を示す外観図、第2図は第1図例の要部を示す一部破断正面図、第3図は一実施例の変形例を示す斜視図、第4図は第3図のN-N線に沿う断面図、第5図は一実施例の別の変形例を示す断面図である。

(1)はスピーカ装置、(2)はキャビネット、(3a)、
 (3b)及び(3c)は夫々スピーカユニット、(4)は台、
 (5a)及び(5b)は夫々支柱、(6)はリモートコント
 ロール信号受信機、(8)はリモートコントロール信
 号送信機、(9)は中心軸、(10)は軸受、(11a)及び
 (11b)は平ギヤ、(12)はモータである。



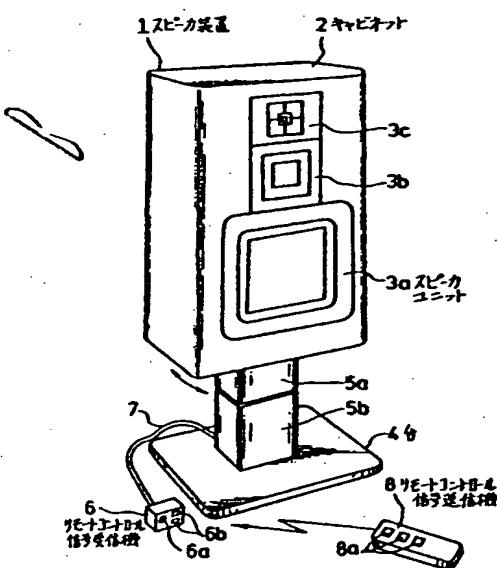
第3図 IV-IV線上の断面図
第4図



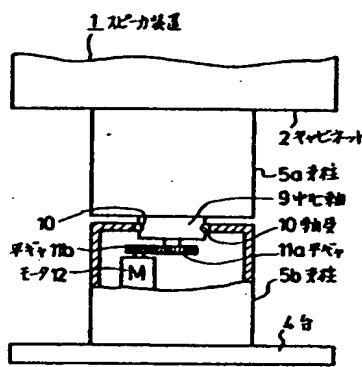
本證明文例正木断面図
第5図

代 理 人 伊 麟 嘉

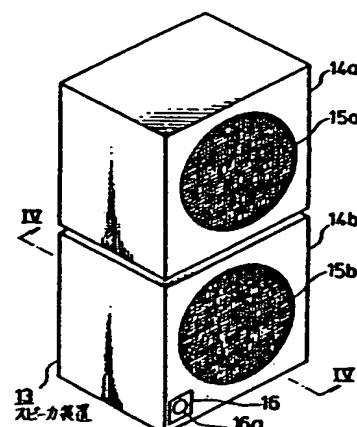
图 按 索 秀 城



本説明の実施例表示斜視図
第1図



一実施例律部を示す一部破断正面図
第2図



本説明の実例を示す斜視図
第3図

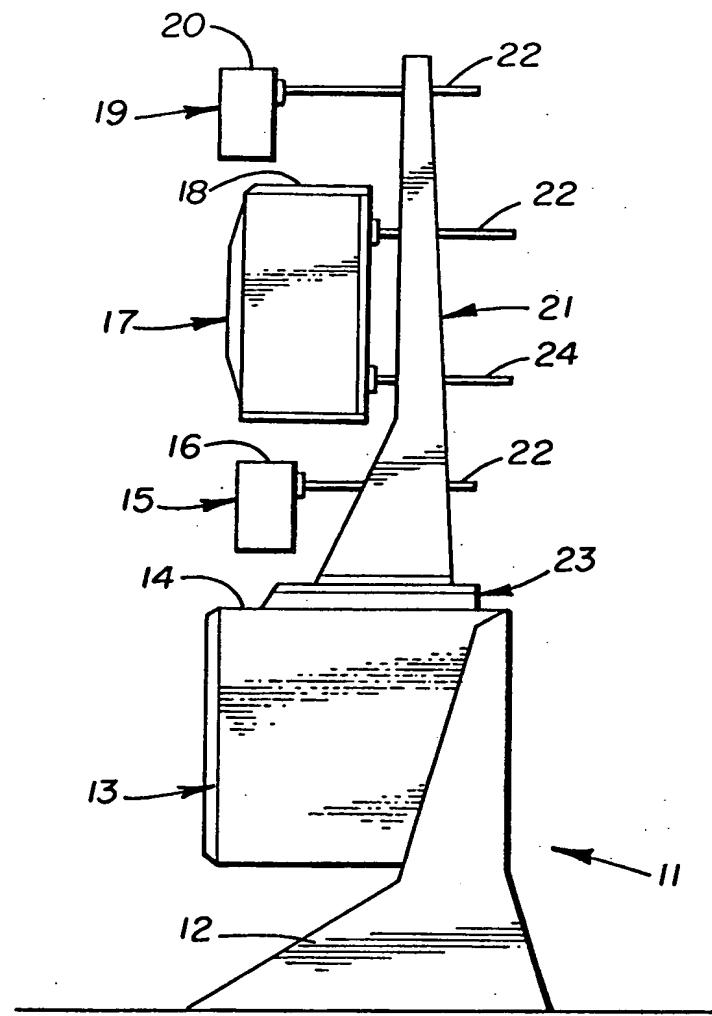


FIGURE 1

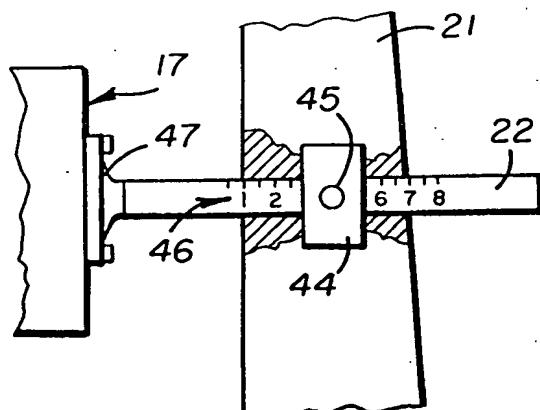


FIGURE 5

FIGURE 6

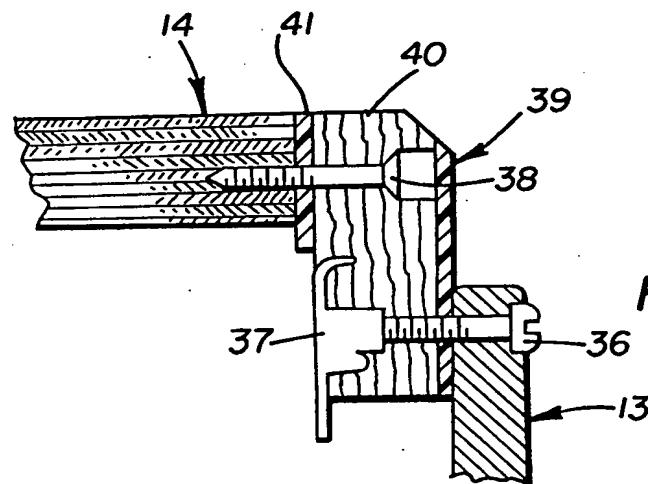
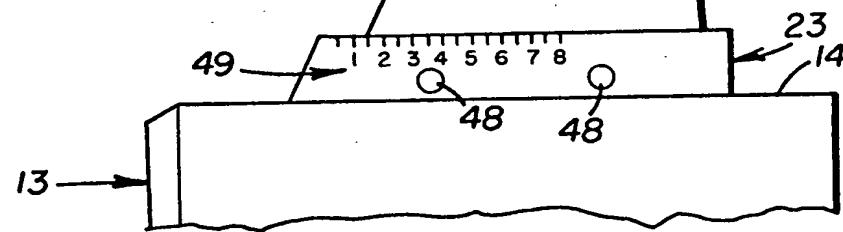


FIGURE 7

照明及び装飾的効果をも發揮し得るものである。

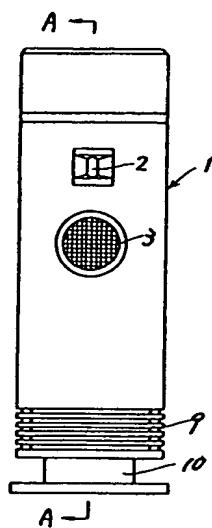
4. 図面の簡単な説明

第1図ないし第3図は本発明に係るスピーカボックスの一実施例を示し、第1図は正面図、第2図は背面図、第3図は第1図におけるA-A断面図、第4図は本発明に係るスピーカボックスの回路を示し、第4図(a)は照明装置がスピーカユニットの音声信号回路に接続された状態の回路、第4図(b)は照明装置が外部電源回路に接続された状態の回路、第5図は電源切換スイッチを示し、第5図(a)は平面図、第5図(b)は第5図(a)のB-B断面図である。

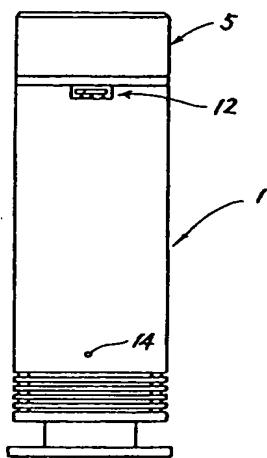
(1)…スピーカボックス本体、(2)(3)(4)…スピーカユニット、(5)…照明装置、(12)…電源切換スイッチ、(16)…音声信号回路、(17)…増幅器、(20)…外部電源回路

代理人 森 本 義 弘

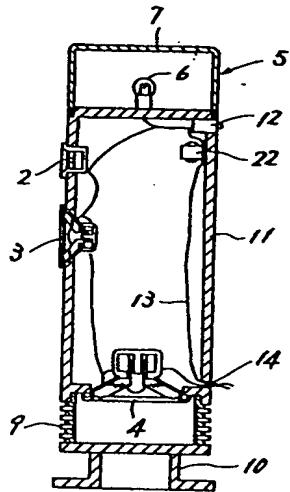
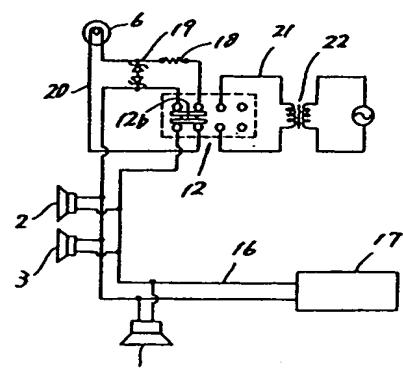
第1図



第2図



第3図

第4図
(a)

(b)

